

Right of Way

3f - Acquisition

3f-1 Are permanent and temporary easements considered right of way acquisitions?

Yes, all easements, both temporary and permanent, are right of way acquisitions that must be acquired according to the Uniform Act.

3f-2 Must all offers by a LPA to acquire property be made in writing?

The first time a LPA makes an offer to purchase; it must be in writing and be in the full amount approved by the LPA as its estimate of just compensation. Subsequent formal offers and notices are also required to be in writing. This does not preclude the use of verbal discussions during negotiations to arrive at an agreed purchase price for the property.

3f-3 Can property owners provide their own appraisal to the LPA?

Yes. The LPA should consider all relevant information in its negotiations with the property owners.

3f-4 When should property owners be paid for the property?

Property owners should be paid as quickly as possible under the applicable laws, on or before the time the owner is required to give up physical possession. This should occur when the property owner transfers title. The LPA should work with the property owner to resolve any liens against the property.

3f-5 Is there a difference as to how acquisition requirements apply between fee simple and easement property rights?

No. Temporary and permanent easements are right of way acquisitions that must be acquired according to the Uniform Act.

3f-6 For Rights of Entry and Temporary Easements, does the LPA need to make an offer to the property owner?

If Temporary Easements are needed for constructing the project, the acquiring agency must treat these property rights the same as any other ROW acquisition activity. Rights of Entry should not be considered adequate property interest to construct, operate, and maintain a project. Rights of Entry are to be used only as an interim solution in the rare circumstances when the acquisition of the needed property is still being negotiated.

3f-7 For the performance of the ROW activities such as title research, appraisal, negotiation and acquisition, does QBS apply?

The ROW functions listed in 3f-6 above are not considered professional services under Federal or State law regarding procurement of professional services. Consequently QBS–Brooks Act does not apply.

Other Federal procurement rules still apply, so it will be necessary to follow the Consultant selection processes outlined in Chapter 7 of the LPA Manual.

<http://www.nebraskatransportation.org/roway/pdfs/lpa/lpa-manual.pdf>